

ORDINANCE NO. 100685

**REQUESTING AND AUTHORIZING THE CITY OF SAN ANTONIO, TEXAS CONVENTION CENTER HOTEL FINANCE CORPORATION (THE "ISSUER") TO ISSUE UP TO \$130,000,000 OF ITS CONTRACT REVENUE EMPOWERMENT ZONE BONDS, SERIES 2005A, AND UP TO \$100,000,000 OF ITS CONTRACT REVENUE BONDS, TAXABLE SERIES 2005B (COLLECTIVELY, THE "BONDS"), THE PROCEEDS OF WHICH WILL BE LOANED TO HOTEL INVESTMENTS, L.P., A DELAWARE LIMITED PARTNERSHIP (THE "DEVELOPER"), AND USED TO PROVIDE A PORTION OF THE FUNDS REQUIRED TO DEVELOP, CONSTRUCT, EQUIP, FURNISH AND OPEN A FULL-SERVICE HOTEL AND RELATED PARKING TO BE INITIALLY OWNED BY THE DEVELOPER AND LOCATED ADJACENT TO THE CITY'S CONVENTION CENTER ON LAND OWNED BY THE CITY AND INITIALLY LEASED OR LICENSED FROM THE CITY TO THE DEVELOPER**

**WHEREAS**, the City of San Antonio, Texas (the "City") owns and operates a convention center known as the *Henry B. Gonzales Convention Center* (the "Convention Center"); and

**WHEREAS**, the City desires to enter into a *Project Agreement*, to be dated on or about May 26, 2005 (the "Project Agreement") with Hotel Investments, L.P., a Delaware limited partnership (the "Developer") for the purpose of the Developer's designing, developing, constructing, equipping, furnishing and opening a full-service headquarters hotel and related parking (the "Convention Center Hotel Project") that will be initially owned by the Developer and located adjacent to the Convention Center on land owned by, and initially leased or licensed from, the City, and also desires to enter into a *Ground Lease and License Agreement* with the Developer, to be dated on or about May 26, 2005, (the "Ground Lease") pursuant to which the property owned by the City on which the Convention Center Hotel Project will be built will be leased or licensed to the Developer for an initial term of approximately 75 years; and

**WHEREAS**, the City has determined that the construction and operation of the Convention Center Hotel Project will promote economic development and will stimulate business and commercial activity in the City; and

**WHEREAS**, pursuant to the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended, the City created the *City of San Antonio, Texas Convention Center Hotel Finance Corporation* (the "Issuer"), a Texas nonprofit local government corporation, "for the purpose of financing a portion of the costs required to construct, furnish and equip a privately-owned hotel to be located on land owned by the City that is adjacent to the City's Convention Center in order to promote economic development and to stimulate business and commercial activity in the City, all at the request of the City Council of the City"; and

**WHEREAS**, the Convention Center Hotel Project is to be financed with a combination of funds provided by various entities including (i) up to \$130,000,000 in principal amount of *City of San Antonio, Texas Convention Center Hotel Finance Corporation Contract Revenue Empowerment Zone Bonds, Series 2005A* (the "Tax-Exempt Bonds"), (ii) up to \$100,000,000 in principal amount of *City of San Antonio, Texas Convention Center Hotel Finance Corporation Contract Revenue Bonds, Taxable Series 2005B* (the "Taxable Bonds" and collectively with the Tax-Exempt Bonds, the "Bonds"), and approximately (iii) \$77,300,000 of funds or capital asset contributions provided by the Developer and other equity investors identified and arranged by the Developer; and

**WHEREAS**, in lieu of the City issuing revenue bonds to finance the Convention Center Hotel Project as permitted by Chapter 1504, Texas Government Code, particularly Section 1504.002 thereof, the City has requested the Issuer to issue the Bonds on behalf of the City and in so doing will aid and act on behalf of the City to accomplish the governmental purpose of issuing revenue bonds to finance a portion of the Convention Center Hotel Project as permitted by Section 431.101(a), Texas Transportation Code; and

**WHEREAS**, the Bonds will be issued pursuant to the terms of an *Indenture of Trust* between the Issuer and Wells Fargo Bank, N.A., as Trustee, to be dated on or about May 15, 2005, together with any amendments and supplements thereto (the "Indenture"); and

**WHEREAS**, proceeds of the Bonds will be loaned by the Issuer to the Developer pursuant to the terms of a *Loan Agreement* between the Issuer and the Developer (the "Loan Agreement"), and the Developer will be obligated, pursuant to the Loan Agreement and the Ground Lease, to pay all operation and maintenance expenses of the Convention Center Hotel Project and debt service related to the Bonds with certain operating revenues generated from the Convention Center Hotel Project (more specifically defined in the Loan Agreement and the Ground Lease and referred to herein as the "Net Operating Revenues"); and

**WHEREAS**, the Bonds will be secured by and payable from a pledge of the Net Operating Revenues, and, pursuant to an *Economic Development Agreement*, dated as of May 15, 2005 (the "Economic Development Agreement"), which is expected to be approved by a separate Ordinance, the City will be committed to provide additional security for the Bonds by pledging or granting available revenues derived from certain local hotel occupancy taxes and from certain state hotel occupancy taxes and sales taxes, as further described below; and

**WHEREAS**, the scheduled payments of the principal of and interest on the Bonds when due will be guaranteed under a municipal bond insurance policy (the "Municipal Bond Insurance Policy") to be issued by Ambac Assurance Corporation (the "Bond Insurer") in accordance with the terms set forth in the Municipal Bond Insurance Policy; and

**WHEREAS**, the Bonds will be further secured by a first lien mortgage on certain real and personal property of the Developer pursuant to a Deed of Trust and Security Agreement, dated as of even date herewith, between the Developer and the trustee named therein, for the benefit of the Issuer (the "Deed of Trust"); and

**WHEREAS**, the net proceeds of the Bonds, together with certain funds or other assets contributed by equity investors arranged by the Developer, will be used by the Developer to (i) design, develop, construct, furnish and open the Convention Center Hotel Project (including payment of all engineering, architectural and other professional fees related to the design, development and construction of the Convention Center Hotel Project, primarily pursuant to the terms of the Project Agreement), (ii) fund approximately 38 months of capitalized interest (which is intended to cover the period commencing with the date of issuance of the Bonds through six months following completion of construction of the Convention Center Hotel Project), (iii) fund a debt service reserve fund equal to the maximum principal and interest requirements on the Bonds either with cash, a reserve fund surety bond, or a combination thereof, (iv) pay the premium on the Municipal Bond Insurance Policy and (v) pay costs of issuance; and

**WHEREAS**, Section 147(f) of the Internal Revenue Code of 1986, as amended, requires the City Council of the City (as the "applicable elected representative" of the "governmental unit" on behalf of which the Bonds are issued) to approve the issuance of the Tax-Exempt Bonds following a public hearing; and

**WHEREAS**, on April 14, 2005, prior to the adoption of this Ordinance, a public hearing was held by the Issuer with respect to the aforementioned subject matter and notice of such public hearing was published in the *San Antonio Express-News* (a newspaper of general circulation in the City) on March 31, 2005, and posted as required by Chapter 551, Texas Government Code; and

**WHEREAS**, the City Council now deems it necessary and appropriate to: (i) recommend and request that the Issuer issue the Bonds to finance a portion of the Convention Center Hotel Project; and (ii) authorize City officials to take all other actions deemed necessary in connection with designing, developing, constructing, equipping, furnishing, opening, operating and financing the Convention Center Hotel Project; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS:**

**SECTION 1. REQUEST ISSUER TO UNDERTAKE CONVENTION CENTER HOTEL PROJECT.** The City Council hereby formally requests the Issuer to aid and act on behalf of the City to accomplish a governmental purpose of the City by issuing the Bonds for the purpose of financing of a portion of the costs required to design, develop, construct, equip, furnish and open the Convention Center Hotel

Project. The City hereby determines that the design, development, construction, equipping, furnishing, opening and operation of the Hotel Project will promote economic development and will stimulate business and commercial activity in the City.

**SECTION 2. APPROVE THE ISSUANCE OF THE BONDS.** In order to satisfy the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Bylaws of the Issuer and for all other required purposes, the City hereby consents to and approves the issuance of the Bonds described above by the Issuer in the aggregate principal amount of up to \$230,000,000 in order for the Issuer to obtain funds to be loaned to the Developer pursuant to the terms of the Loan Agreement, and such proceeds, together with certain funds or other assets contributed by equity investors arranged by the Developer, will be used by the Developer to (i) design, develop, construct, furnish and open the Convention Center Hotel Project (including payment of all engineering, architectural and other professional fees related to the design, development and construction of the Convention Center Hotel Project, primarily pursuant to the terms of the Project Agreement), (ii) fund approximately 38 months of capitalized interest (which is intended to cover the period commencing with the date of issuance of the Bonds through six months following completion of construction of the Convention Center Hotel Project), (iii) fund a debt service reserve fund equal to the maximum principal and interest requirements on the Bonds either with proceeds of the Bonds, a reserve fund surety policy, or a combination thereof, (iv) pay the premium for the Municipal Bond Insurance Policy, and (v) pay costs of issuance.

**SECTION 3. FURTHER PROCEDURES.** The Mayor, the City Clerk, the City Manager, each Assistant City Manager, the Director of Finance and each Assistant Director of Finance of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and to accomplish the sale of the Bonds by the Issuer.

**SECTION 4. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 5. INCORPORATION OF RECITALS.** The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as a part of this Ordinance.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective on the tenth day from passage hereof.

*[The remainder of this page intentionally left blank]*

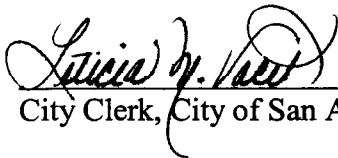
4/14/05  
ITEM #4D

**PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF APRIL, 2005.**



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M A Y O R

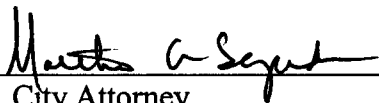
ATTEST:



\_\_\_\_\_  
City Clerk, City of San Antonio, Texas

(CITY SEAL)

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

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[SIGNATURE PAGE FOR CITY ORDINANCE AUTHORIZING ISSUER TO ISSUE BONDS]

# Agenda Voting Results

**Name:** 4 D.

**Date:** 04/14/05

**Time:** 05:00:52 PM

**Vote Type:** Multiple selection

**Description:** An Ordinance requesting and authorizing the City of San Antonio, Texas Convention Center Hotel Finance Corporation (the "Issuer") to issue up to \$130,000,000 of its Contract Revenue Empowerment Zone Bonds, Series 2005A, and up to \$100,000,000 of its Contract Revenue Bonds, Taxable and potential Tax-Exempt bonds (collectively, the "Bonds"), the proceeds of which will be loaned to Hotel Investments, L.P., a Delaware limited partnership (the "Developer"), and used to provide a portion of the funds required to develop, construct, equip, furnish and open a full-service hotel and related parking to be initially owned by the Developer and located adjacent to the City's convention center on land owned by the City and initially leased or licensed from the City to the Developer.

| Voter              | Group       | Status      | Yes | No | Abstain |
|--------------------|-------------|-------------|-----|----|---------|
| ROGER O. FLORES    | DISTRICT 1  |             | x   |    |         |
| JOEL WILLIAMS      | DISTRICT 2  |             | x   |    |         |
| RON H. SEGOVIA     | DISTRICT 3  |             | x   |    |         |
| RICHARD PEREZ      | DISTRICT 4  |             | x   |    |         |
| PATTI RADLE        | DISTRICT 5  |             | x   |    |         |
| ENRIQUE M. BARRERA | DISTRICT 6  |             | x   |    |         |
| JULIAN CASTRO      | DISTRICT 7  | Not present |     |    |         |
| ART A. HALL        | DISTRICT 8  |             | x   |    |         |
| CARROLL SCHUBERT   | DISTRICT 9  |             |     |    | x       |
| CHIP HAASS         | DISTRICT_10 |             | x   |    |         |
| MAYOR ED GARZA     | MAYOR       |             | x   |    |         |